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OFFICE OF PETITIONS

In re Application of :
Reddy et al. :
Application No. 10/759,678 : ON PETITION
Filed: 16 January, 2004 :
Atty Docket No. HES 2003-IP- :
011937U1 :

This is a decision on the petition filed under 37 CFR 1.182 on 17 August, 2006, requesting that terminal disclaimer(s) filed in Application No. 10/759,678 be withdrawn.

The petition is dismissed.

The present petition requests that the terminal disclaimer filed on 16 February, 2006, be withdrawn.

The petition is dismissed because the examiner has determined that the terminal disclaimer does apply to at least one claim of record.

Specifically, the examiner has commented that Claims 1-39 remain rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-13 of US Patent No. 6,796,378 B2 (Reddy et al.) alone or in view of Yamashita et al. '418.

Reddy et al. teach applying his cement composition comprising cationic polymer (cationic derivatized starch), calcium

aluminate, water, and retarder (col.2, line 46) for a well cement. Water can be considered an activator because it activates the hydraulic activity of hydraulic cement to allow it to react and eventually set into a hardened mass. Reddy do not teach explicitly the presence of an accelerator (or activator). However, Yamashita et al. teach conventional additives may be added to cement compositions which include high early strength agents/promoters (which accelerators are). Yamashita et al. teach that KOH, NaOH, and alkanolamines are conventional high early strength additives to cement compositions and its addition to Reddy et al.'s cement composition would have been an obvious design choice for one of ordinary skill in the art. Note that on page 10 [0033] of applicants' specification they teach sodium hydroxide or potassium hydroxide and alkanolamines. Further, applicants' specification teaches high strength at a faster rate by adding these activators. That is the same as a high early strength agent.

As the petition was not necessitated by an error on the part of the USPTO, the fee will not be refunded.

Further correspondence with respect to this matter should be addressed as follows:

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The address in the petition is different than the correspondence address. A copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application is being referred to Technology Center Art Unit 1755 for further processing.

Application No. 10/759,678

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Telephone inquires should be directed to the undersigned at
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